

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 1861 – HB 1949

March 12, 2014

SUMMARY OF ORIGINAL BILL: Increases the fine for assault to \$5,000 if committed against an elder person 65 years of age or older. Increases the fine for aggravated assault to \$15,000 if committed against an elder person 65 years of age or older.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENT (013774): Deletes all language after the enacting clause. Enhances assault and aggravated assault against an elderly person by one classification.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Increase State Expenditures - \$1,259,300/Incarceration*

Decrease Local Expenditures - \$303,800

Assumptions for the bill as amended:

- Currently, assaults that result in bodily injury to another or cause another to reasonably fear imminent bodily injury are Class A misdemeanors. Under the proposed legislation, these would be Class E felonies.
- According to statistics from the Administrative Office of the Courts (AOC), there has been an average of 692.6 assaults disposed of in state circuit or criminal courts each year over the past five years.
- It is assumed that only one in 10 misdemeanor offenses are disposed of in a circuit or criminal court. It is assumed that there are approximately 6,926 assaults committed each year (692.6×10).
- It is assumed that 60 percent ($6,926 \times .6 = 4,155.6$) of these assaults resulted in bodily injury to another or caused another to reasonably fear imminent bodily injury. It is further assumed that one percent ($4,155.6 \times .01 = 41.56$) of these assaults were committed against an elderly person.
- The proposed legislation will result in 42 assaults each year being sentenced as Class E felonies rather than Class A misdemeanors.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12

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percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will account for five ($42 \times .1178$) additional admissions for a total of 47 ($42 + 5$).

- The average time served for a Class E felony is 1.31 years.
- According to the Department of Correction (DOC), 42.52 percent of offenders will re-offend within two years of their release. A recidivism discount of 42.52 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under current law ($47 \text{ offenders} \times .4252 = 20 \text{ offenders}$).
- According to the DOC, the average operating cost per offender per day for calendar year 2014 is \$66.29.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 27 offenders [$47 \text{ offenders} - 20 \text{ (recidivism discount)}$] serving 1.31 years (478.48 days) for a total of \$31,718.44 ($\$66.29 \times 478.48 \text{ days}$). The cost for 27 offenders is \$856,397.88 ($\$31,718.44 \times 27$).
- The estimated 2014 cost per inmate per day for local jails is \$62.52.
- It is assumed that the average offender for assault committed against an elderly person that resulted in bodily injury served 180 days in a local jail.
- The proposed legislation will result in a decrease in local expenditures of \$303,847.20 ($27 \text{ offenders} \times 180 \text{ days} \times \62.52).
- Aggravated assault may be prosecuted as a Class C felony or a Class D felony. The proposed legislation enhances an aggravated assault one classification if committed against an elderly person.
- According to statistics from DOC, there has been an average of 978.7 admissions per year for Class C aggravated assault over the last 10 years.
- It is assumed that one percent ($978.7 \times .01 = 9.79$) of these were committed against an elderly person. The proposed legislation will result in 10 aggravated assaults each year being prosecuted as Class B felonies rather than Class C felonies.
- Each offender will serve an additional 2.62 years (5.6 years, the average time served for a Class B felony – 2.98 years, the average time served for a Class C felony).
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will account for one ($10 \times .1178$) additional admissions for a total of 11 ($10 + 1$).
- According to the DOC, 48.29 percent of offenders will re-offend within three years of their release. A recidivism discount of 48.29 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under current law ($11 \text{ offenders} \times .4829 = 5 \text{ offenders}$).
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on six offenders [$11 \text{ offenders} - 5 \text{ (recidivism discount)}$] serving an additional 2.62 years (956.96 days) for a total of \$63,436.88 ($\$66.29 \times 956.96 \text{ days}$). The cost for six offenders is \$380,621.28 ($\$63,436.88 \times 6$).
- According to statistics from the DOC, there has been an average of 156.1 admissions per

year for reckless aggravated assault, a Class D felony, over the last ten years.

- It is assumed that one percent ($156.1 \times .01 = 1.56$) of these were committed against an elderly person. The proposed legislation will result in two aggravated assaults each year being prosecuted as Class C felonies rather than Class D felonies.
- Each offender will serve an additional .92 years (2.98 years, the average time served for a Class C felony – 2.06 years, the average time served for a Class D felony).
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will not affect the fiscal impact of this legislation.
- According to the DOC, 32.03 percent of offenders will re-offend within one year of their release. A recidivism discount of 32.03 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under current law ($2 \text{ offenders} \times .3203 = 1 \text{ offender}$).
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender [2 offenders – 1 (recidivism discount)] serving an additional .92 years (336.03 days) for a total of \$22,275.43 ($\$66.29 \times 336.03 \text{ days}$).
- The total increase in state expenditures is \$1,259,294.59 ($\$856,397.88 + \$380,621.28 + \$22,275.43$).
- The proposed legislation does not create any new offenses, but merely enhances the classification for current offenses. It is assumed that the courts, districts attorneys, and public defenders can accommodate any impact within existing resources.

**Tennessee Code Annotated § 9-4-210 requires an appropriation from recurring revenues for the estimated operation cost of any law enacted after July 1, 1986 that results in a net increase in periods of imprisonment in state facilities. The amount appropriated shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

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